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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

13 In re:

14 GIGA WATT INC,

15 Debtor.
16
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} Case No. 18-03197-FPC11

} DECLARATION OF JIM KUNTZ IN
} SUPPORT OF LIMITED OBJECTION TO
} CHAPTER 11 TRUSTEE'S MOTION FOR
} ORDER APPROVING SALE OF
} EQUIPMENT FREE AND CLEAR OF
} LIENS

18 I, Jim Kuntz, am the CEO of the Chelan Douglas Regional Port Authority
19 formerly the Port of Douglas County (the "Port"). I am the person in charge of and
20 have possession of all the books, records and files pertaining to the lease of Port real
21 property to the debtor, Giga Watt, Inc., and the financial records of rent paid and the
22 surety deposit filed by Giga Watt. Collectively, these records and files are referred to
23 as "Debtor's Business Records".

24 I have personally worked on the Debtor's Business Records. Accordingly, the
25 facts stated herein are based on my own true knowledge, and/or I have gained

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1 knowledge of the facts from the Debtor's Business Records. The Debtor's Business
2 Records were created in the ordinary course of the Chelan Douglas Regional Port
3 Authority, formerly the Port of Douglas County, (the "Port") and were created at or
4 about such time as the records are dated. After the Debtor's Business Records were
5 prepared, the Debtor's Business Records were stored in both paper and electronically
6 on the Port's servers. The Debtor's Business Records can be accessed by me
7 electronically in my office or by asking for the actual paper files. Therefore, I have
8 personal knowledge of the facts contained in this declaration. If I were called to testify,
9 my testimony would be consistent with the facts set forth in this declaration.

10 As stated in my prior declaration at ECF 468, the lease between the Port and
11 Debtor was terminated prior to Debtor filing bankruptcy and was not assumed by the
12 Trustee. The Port does not object to the sale and removal of personal property from
13 Port's real estate. However, the Purchase and Sale Agreement indicates on page 1 of
14 the Purchase and Sale Agreement, (ECF 519-2, page 2 of 11) that the buyer is not
15 obligated to buy all the personal property. Further, the buyer is not obligated to
16 demolish or remove any of the pods, which are temporary buildings erected on the
17 Port's real property by Debtor. Additionally, there are pallets of debris, junk, bent
18 siding from the buildings, and underground conduit etc. that is still on the Port's real
19 property. The Port wants to ensure that ALL debtor's personal property is removed
20 from the Port's real property, whether by the purchaser or by the Chapter 11 Trustee.
21 The Port doesn't care who removes it as long as it is removed.

22 The Port welcomes the sale of the debtor's personal property and hopes that all
23 the personal property and debris of every nature and sort left by Debtor on the Port's
24 real property will be removed. The Port requests that the order of sale state that **all**
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1 personal property left by Debtor on the Port's real property will be removed by either
2 the Trustee or the purchaser.

3 The Port's second limited objection is the lack of indemnification of the Port.
4 The purchaser is required to indemnify the Trustee for damage to the Port's real
5 property, for the purchaser's **gross** negligence, which is set forth in paragraph 13 of
6 the Purchase and Sale Agreement (ECF 519-2, page 5 of 11). The Port objects to any
7 sale in which the Port is not indemnified. The Trustee should be ordered to indemnify
8 the Port against any and all claims of any nature and to any extent brought by any
9 party whatsoever, for any claims, actions, causes of action, demands, rights, damages,
10 costs, loss of service, expenses and compensation whatsoever, which any party brings
11 against the Port, which may accrue in any way out of the sale and removal of personal
12 property by purchaser or removal of any remaining debris by the Chapter 11 Trustee.
13 The indemnification of the Port should not have a gross negligence standard. The
14 Trustee should indemnify the Port for all claims that arise from the sale and removal of
15 Debtor's personal property brought against the Port.

16 I make this declaration under the penalty of perjury under the laws of the State
17 of Washington.

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19 DATED this 6th day of April 2020, at East Wenatchee, Washington.

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21 
22 Jim Kuntz

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